

Executive Summary – Enforcement Matter – Case No. 51392
Bernardo Espinoza
RN108876640, RN107385940, and RN106170103
Docket No. 2015-1590-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

JB Stone Quarry 2, 500 Private Road 909, Williamson County ("Site No. 1")

JB Stone Quarry Jarrell Site, 1255 County Road 344, Williamson County ("Site No. 2")

JB Stone Quarry, 500 Private Road 909, Williamson County ("Site No. 3")

Type of Operation:

Aggregate production operation ("APO")

Other Significant Matters:

Additional Pending Enforcement Action: Yes, Docket No. 2014-1206-WQ-E

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 6, 2016

Comments Received: No

Penalty Information

Total Penalty Assessed: \$15,813

Amount Deferred for Expedited Settlement: \$3,162

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$366

Total Due to General Revenue: \$12,285

Payment Plan: 35 payments of \$351 each

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications (Site No. 1):

Person/CN - High

Site/RN - Unclassified

Compliance History Classifications (Site No. 2):

Person/CN - High

Site/RN - High

Compliance History Classifications (Site No. 3):

Person/CN - High

Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: \$14,025

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 51392
Bernardo Espinoza
RN108876640, RN107385940, and RN106170103
Docket No. 2015-1590-WQ-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: July 30, 2015

Date(s) of NOE(s): September 24, 2015

Violation Information

1. Failed to register Site Nos. 1 and 3 as APOs no later than 10 business days before the beginning dates of regulated activities [30 TEX. ADMIN. CODE § 342.25(b)].
2. Failed to renew the APO registration annually for Site No. 2 as regulated activities continued. Specifically, APO Registration No. AP0000942 for Site No. 2 expired on June 27, 2015, and the Respondent continued to operate [30 TEX. ADMIN. CODE § 342.25(d)].
3. Failed to obtain authorization to discharge stormwater associated with industrial activities. Specifically, the Respondent was performing industrial activities at Site No. 1 prior to obtaining authorization under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR050000 [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures:

- a. By August 4, 2015:
 - i. Registered Site No. 1 as an APO;
 - ii. Obtained authorization to discharge stormwater associated with industrial activities at Site No 1 under TPDES General Permit No. TXR05CM70; and
 - iii. Renewed the APO registration for Site No. 2.
- b. By August 7, 2015, registered Site No. 3 as an APO.

Technical Requirements:

N/A

Executive Summary – Enforcement Matter – Case No. 51392
Bernardo Espinoza
RN108876640, RN107385940, and RN106170103
Docket No. 2015-1590-WQ-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Melissa Cordell, Enforcement Division, MC 219, (512) 239-2483
TCEQ SEP Coordinator: N/A
Respondent: Bernardo Espinoza, Operator, P.O. Box 691, Jarrell, Texas 76537
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	28-Sep-2015	Screening	6-Jan-2016	EPA Due	
	PCW	3-Mar-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	Bernardo Espinoza (Site No. 1)		
Reg. Ent. Ref. No.	RN108876640		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	51392	No. of Violations	1
Docket No.	2015-1590-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jill Russell
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$1,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **-10.0%** **Adjustment** **Subtotals 2, 3, & 7** **-\$125**

Notes Reduction for High Performer classification.

Culpability **No** **0.0%** **Enhancement** **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

2015-1590-WQ-E

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **-\$312**

Economic Benefit **0.0%** **Enhancement*** **Subtotal 6** **\$0**

Total EB Amounts **\$1**
Estimated Cost of Compliance **\$2,000**

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$813**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$813**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$813**

DEFERRAL **20.0%** **Reduction** **Adjustment** **-\$162**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$651**

Screening Date 6-Jan-2016

Docket No. 2015-1590-WQ-E

PCW

Respondent Bernardo Espinoza (Site No. 1)

Policy Revision 4 (April 2014)

Case ID No. 51392

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108876640

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 6-Jan-2016

Docket No. 2015-1590-WQ-E

PCW

Respondent Bernardo Espinoza (Site No. 1)

Policy Revision 4 (April 2014)

Case ID No. 51392

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108876640

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number

1

Rule Cite(s)

30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations § 122.26(c)

Violation Description

Failed to obtain authorization to discharge stormwater associated with industrial activities, as documented during an investigation conducted on July 30, 2015. Specifically, the Respondent was performing industrial activities at Site No. 1 prior to obtaining authorization under Texas Pollutant Discharge Elimination System General Permit No. TXR050000.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violations 2015-1590-WQ-E

Number of Violation Events

1

5

Number of violation days

mark only one
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$1,250

One monthly event is recommended from the July 30, 2015 investigation date to the August 4, 2015 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$312

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance on August 4, 2015.

Violation Subtotal \$938

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$813

This violation Final Assessed Penalty (adjusted for limits) \$813

Economic Benefit Worksheet

Respondent Bernardo Espinoza (Site No. 1)

Case ID No. 51392

Reg. Ent. Reference No. RN108876640

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$2,000	30-Jul-2015	4-Aug-2015	0.01	\$1	n/a	\$1
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost associated with preparing and submitting a Notice of Intent to obtain authorization and developing and implementing a stormwater pollution prevention plan. Date required is the original investigation date. Final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$1



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	4-Jan-2016	Screening	6-Jan-2016	EPA Due	
	PCW	3-Mar-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	Bernardo Espinoza (Site No. 1)		
Reg. Ent. Ref. No.	RN108876640		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	51392	No. of Violations	1
Docket No.	2015-1590-WQ-E	Order Type	1660
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jill Russell
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$5,000	Maximum	\$10,000
		Violation Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$50
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$125
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$0
Estimated Cost of Compliance	\$375

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$325
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$325
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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Notes	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,000
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$4,000
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Screening Date 6-Jan-2016

Docket No. 2015-1590-WQ-E

PCW

Respondent Bernardo Espinoza (Site No. 1)

Policy Revision 4 (April 2014)

Case ID No. 51392

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108876640

Media [Statute] Aggregate Production Operation

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 6-Jan-2016

Docket No. 2015-1590-WQ-E

PCW

Respondent Bernardo Espinoza (Site No. 1)

Policy Revision 4 (April 2014)

Case ID No. 51392

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN108876640

Media [Statute] Aggregate Production Operation

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 342.25(b)

Violation Description

Failed to register the Site as an aggregate production operation ("APO") no later than 10 business days before the beginning date of regulated activities, as documented during an investigation conducted on July 30, 2015.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
		x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

5 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$125

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent achieved compliance on August 4, 2015.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Bernardo Espinoza (Site No. 1)
Case ID No. 51392
Req. Ent. Reference No. RN108876640
Media Aggregate Production Operation
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$375	30-Jul-2015	4-Aug-2015	0.01	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to register the site as an APO. Date required is the original investigation date. Final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$375

TOTAL

\$0

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603864844, RN108876640, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN603864844, Espinoza, Bernardo

Classification: HIGH

Rating: 0.00

Regulated Entity: RN108876640, J B Stone Quarry 2 (Site 1)

Classification: UNCLASSIFIED

Rating: -----

Complexity Points: 2

Repeat Violator: NO

CH Group: 14 - Other

Location: 500 Private Road 909, Georgetown, Williamson County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

EDWARDS AQUIFER PERMIT 11-14022704

STORMWATER PERMIT TXR05CM70

AGGREGATES REGISTRATION AP0001413

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: January 05, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 05, 2011 to January 05, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jill Russell

Phone: (512) 239-4564

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A



Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	28-Sep-2015	Screening	30-Sep-2015	EPA Due	
	PCW	26-Jan-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	Bernardo Espinoza (Site No. 2)		
Reg. Ent. Ref. No.	RN107385940		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	51392	No. of Violations	1
Docket No.	2015-1590-WQ-E	Order Type	1660
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jill Russell
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$5,000	Maximum	\$10,000
		Violation Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0%	Adjustment	Subtotals 2, 3, & 7	-50
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Notes: Reduction for High Performer classification.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$125
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Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$2
Estimated Cost of Compliance: \$375

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$325
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$325
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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Notes:

The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.

DEFERRAL	20.0%	Reduction	Adjustment	-\$1,000
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,000
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Screening Date 30-Sep-2015

Docket No. 2015-1590-WQ-E

PCW

Respondent Bernardo Espinoza (Site No. 2)

Policy Revision 4 (April 2014)

Case ID No. 51392

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107385940

Media [Statute] Aggregate Production Operation

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 30-Sep-2015

Docket No. 2015-1590-WQ-E

PCW

Respondent Bernardo Espinoza (Site No. 2)

Policy Revision 4 (April 2014)

Case ID No. 51392

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN107385940

Media [Statute] Aggregate Production Operation

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 342.25(d)

Violation Description

Failed to renew the aggregate production operation ("APO") registration annually for the Site as regulated activities continued, as documented during an investigation conducted on July 30, 2015. Specifically, APO Registration No. AP0000942 expired on June 27, 2015, and the Respondent continued to operate.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1

38 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$125

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes The Respondent achieved compliance on August 4, 2015.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Bernardo Espinoza (Site No. 2)
Case ID No. 51392
Reg. Ent. Reference No. RN107385940
Media Aggregate Production Operation
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$375	27-Jun-2015	4-Aug-2015	0.10	\$2	n/a	\$2
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to renew the APO registration. Date required is the registration expiration date. Final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$375

TOTAL

\$2

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603864844, RN107385940, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN603864844, Espinoza, Bernardo

Classification: HIGH

Rating: 0.00

Regulated Entity: RN107385940, J B Stone Quarry Jarrell Site (Site No. 2)

Classification: HIGH

Rating: 0.00

Complexity Points: 5

Repeat Violator: NO

CH Group: 04 - Mining

Location: 1255 County Road 344, Jarrell, Williamson County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

EDWARDS AQUIFER PERMIT 11-05020101

EDWARDS AQUIFER PERMIT 11-05020101D

AGGREGATES REGISTRATION AP0001412

EDWARDS AQUIFER PERMIT 11-05020101C

STORMWATER PERMIT TXR05CD39

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 85701

PETROLEUM STORAGE TANK REGISTRATION
REGISTRATION 77360

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: January 05, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 05, 2011 to January 05, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jill Russell

Phone: (512) 239-4564

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A



Policy Revision 4 (April 2014)

Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	4-Jan-2016	Screening	6-Jan-2016	EPA Due	
	PCW	3-Mar-2016				

RESPONDENT/FACILITY INFORMATION

Respondent	Bernardo Espinoza (Site No. 3)		
Reg. Ent. Ref. No.	RN106170103		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	51392	No. of Violations	1
Docket No.	2015-1590-WQ-E	Order Type	1660
Media Program(s)	Aggregate Production Operation	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Jill Russell
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$5,000	Maximum	\$10,000
		Violation Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$500
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0%	Adjustment	Subtotals 2, 3, & 7	-\$50
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Notes	Reduction for High Performer classification.
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Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
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Notes	The Respondent does not meet the culpability criteria.
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Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$125
--	-------------------	--------

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$0	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$375	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$325
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
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Final Penalty Amount	\$325
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,000
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Notes	The final assessed penalty has been adjusted to meet the statutory requirements of Tex. Water Code § 28A.102.
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DEFERRAL	20.0%	Reduction	Adjustment	-\$1,000
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
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PAYABLE PENALTY	\$4,000
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Screening Date 6-Jan-2016

Docket No. 2015-1590-WQ-E

PCW

Respondent Bernardo Espinoza (Site No. 3)

Policy Revision 4 (April 2014)

Case ID No. 51392

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106170103

Media [Statute] Aggregate Production Operation

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for High Performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 6-Jan-2016

Docket No. 2015-1590-WQ-E

PCW

Respondent Bernardo Espinoza (Site No. 3)

Policy Revision 4 (April 2014)

Case ID No. 51392

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN106170103

Media [Statute] Aggregate Production Operation

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 342.25(b)

Violation Description Failed to register the Site as an aggregate production operation ("APO") no later than 10 business days before the beginning date of regulated activities, as documented during an investigation conducted on July 30, 2015.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0.0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,500

\$500

Violation Events

Number of Violation Events 1 Number of violation days 8

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$500

One single event is recommended.

Good Faith Efforts to Comply

25.0%

Reduction \$125

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes

The Respondent achieved compliance on August 7, 2015.

Violation Subtotal \$375

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$325

This violation Final Assessed Penalty (adjusted for limits) \$5,000

Economic Benefit Worksheet

Respondent Bernardo Espinoza (Site No. 3)

Case ID No. 51392

Reg. Ent. Reference No. RN106170103

Media Aggregate Production Operation
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$375	30-Jul-2015	7-Aug-2015	0.02	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost to register the site as an APO. Date required is the original investigation date. Final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$375

TOTAL

\$0

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To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PUBLISHED Compliance History Report for CN603864844, RN106170103, Rating Year 2015 which includes Compliance History (CH) components from September 1, 2010, through August 31, 2015.

Customer, Respondent, or Owner/Operator: CN603864844, Espinoza, Bernardo

Classification: HIGH

Rating: 0.00

Regulated Entity: RN106170103, J B Stone Quarry
(Site No. 3)

Classification: UNCLASSIFIED

Rating: -----

Complexity Points: 3

Repeat Violator: NO

CH Group: 04 - Mining

Location: 500 Private Road 909, Georgetown, Williamson County, Texas

TCEQ Region: REGION 11 - AUSTIN

ID Number(s):

EDWARDS AQUIFER PERMIT 11-11060703

EDWARDS AQUIFER PERMIT 11-11060702

STORMWATER PERMIT TXR05AG72

AGGREGATES REGISTRATION AP0001419

Compliance History Period: September 01, 2010 to August 31, 2015

Rating Year: 2015

Rating Date: 09/01/2015

Date Compliance History Report Prepared: January 05, 2016

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: January 05, 2011 to January 05, 2016

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jill Russell

Phone: (512) 239-4564

Site and Owner/Operator History:

- | | |
|--|-----|
| 1) Has the site been in existence and/or operation for the full five year compliance period? | YES |
| 2) Has there been a (known) change in ownership/operator of the site during the compliance period? | NO |
| 3) If YES for #2, who is the current owner/operator? | N/A |
| 4) If YES for #2, who was/were the prior owner(s)/operator(s)? | N/A |
| 5) If YES , when did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

N/A

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
BERNARDO ESPINOZA
RN108876640; RN107385940;
RN106170103**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-1590-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Bernardo Espinoza ("Respondent") under the authority of TEX. WATER CODE chs. 7, 26, and 28A. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent is a responsible party as defined in TEX. WATER CODE § 28A.001(6), because he is an operator as defined in TEX. WATER CODE § 28A.001(4), of aggregate production operations ("APOs"), JB Stone Quarry 2 located at 500 Private Road 909 ("Site No. 1"), JB Stone Quarry Jarrell Site located at 1255 County Road 344 ("Site No. 2"), and JB Stone Quarry located at 500 Private Road 909 ("Site No. 3") in Williamson County, Texas. Aggregates are being or have been removed or extracted from the Sites' earth. Therefore, the Sites are APOs as defined in TEX. WATER CODE § 28A.001(1).
2. Site No. 1 adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notices of the violations alleged in Section II ("Allegations") on or about September 29, 2015.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifteen Thousand Eight Hundred Thirteen Dollars (\$15,813) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent paid Three Hundred Sixty-Six Dollars (\$366) of the penalty and Three Thousand One Hundred Sixty-Two Dollars (\$3,162) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Order and shall be waived only upon full compliance with all the terms and conditions of this Order.

The remaining amount of Twelve Thousand Two Hundred Eighty-Five Dollars (\$12,285) of the penalty shall be paid in 35 monthly payments of Three Hundred Fifty-One Dollars (\$351) each. The first monthly payment shall be paid within 30 days after the effective date of this Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to comply with the payment requirements of this Order, including the payment schedule, the Executive Director may accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. The Respondent's failure to meet the payment schedule of this Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Sites:
 - a. By August 4, 2015:
 - i. Registered Site No. 1 as an APO;
 - ii. Obtained authorization to discharge stormwater associated with industrial activities at Site No 1. under Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXR05CM70; and
 - iii. Renewed the APO registration for Site No. 2.
 - b. By August 7, 2015, registered Site No. 3 as an APO.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Sites, the Respondent is alleged to have:

1. Failed to register Site Nos. 1 and 3 as APOs no later than 10 business days before the beginning dates of regulated activities, in violation of 30 TEX. ADMIN. CODE § 342.25(b), as documented during investigations conducted on July 30, 2015.
2. Failed to renew the APO registration annually for Site No. 2 as regulated activities continued, in violation of 30 TEX. ADMIN. CODE § 342.25(d), as documented during an investigation conducted on July 30, 2015. Specifically, APO Registration No. Ap0000942 for Site No. 2 expired on June 27, 2015, and the Respondent continued to operate.
3. Failed to obtain authorization to discharge stormwater associated with industrial activities, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS § 122.26(c), as documented during an investigation conducted on July 30, 2015. Specifically, the Respondent was performing industrial activities at Site No. 1 prior to obtaining authorization under TPDES General Permit No. TXR050000.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: Bernardo Espinoza, Docket No. 2015-1590-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
3. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
6. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this

paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

7. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Bernardo Espinoza

For the Executive Director

7/7/16

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Bernardo Espinoza

Signature

04/06/2016

Date

Bernardo Espinoza

Name (Printed or typed)
Authorized Representative of
Bernardo Espinoza

owner

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.